

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2002-401-E - ORDER NO. 2003-288
APRIL 30, 2003

IN RE: Ms. Karen Million,)	ORDER
)	DISMISSING
Complainant,)	COMPLAINT
vs.)	
)	
Duke Power,)	
)	
Respondent.)	

I. INTRODUCTION

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Complaint of Karen Million (Mrs. Million) versus Duke Power (Duke or the Company). Mrs. Million complained that Duke failed to provide adequate, efficient, and reasonable service as established pursuant to S.C. Code Ann. Section 58-27-1510 (Supp. 2002). Duke denied the allegations of the Complaint.

A hearing was held on March 13, 2003 at 10:30 AM in the offices of the Commission, with the Honorable Mignon Clyburn, Chairman, presiding. Mrs. Million testified and represented herself. The Respondent Duke Power presented the testimony of Barbara Yarbrough. Duke proffered the supplemental testimony of Barbara Yarbrough and the testimony of James Murphy, however, the proffers were not accepted into the evidence of this case. Duke was represented at the hearing by Richard L. Whitt, Esq., and Lara S. Nichols, Esq. The Commission Staff (the Staff) presented the testimony of A.R.

Watts. The Staff was represented by F. David Butler, General Counsel and Jeffrey M. Nelson, Staff Counsel.

II. SUMMARY OF TESTIMONY

Mrs. Million testified on her own behalf. She complained that the whole process started on October 3, 2001, at which time she reported to Duke that her lights were dimming and “browning out.” On October 17, 2001, she made a similar complaint. She stated that she called Duke three times in November, because her light bulbs were blowing out. She again reported a problem around December 3, 2001, at which time she could see “arcing” outside her house. On December 31, 2001, Mrs. Million stated that her lights were going on and off continuously, and that a total of 89 days passed between the time that she first reported a problem until the time that the problem was ultimately repaired. Under cross-examination, Mrs. Million stated that she thought her home was built in the 1950’s. Mrs. Million ultimately stated that the “adequate service” statute had been violated, and that the Commission should impose penalties under the penalty statutes.

Barbara Yarbrough of Duke also testified. She states that the first recorded call to Duke’s knowledge was December 3, 2001, at which time it was reported that there were flickering lights at the Million’s home. Several days later, Duke initiated an investigation by installing a voltage recorder. However, according to Mrs. Yarbrough, this equipment did not reveal any specific problem. Beginning on December 17, 2001, Duke took further action to investigate this issue, including inspecting the circuits. On December 31, 2001, Duke discovered a failed neutral connection and promptly made repairs. Again, according to Mrs. Yarbrough, a failed neutral connection causes an imbalance of the

voltage and this could cause fluctuation in voltages to the residence. Duke's records indicated that Mrs. Million apparently had damage to a home computer and it informed Ms. Million that she could submit a claim to Duke's claims department.

Mrs. Yarbrough denied that there was an October 3, 2001 call to Duke from Mrs. Million. She noted that there had been a call to Mrs. Million from a Duke contractor on September 27, 2001 related to bill payment. Further, Mrs. Yarbrough stated that there was no record of October or November calls from Mrs. Million.

A.R. Watts, Chief of Electric in the Commission Staff's Utilities Department, also testified. Watts stated that it was his understanding that on or about December 3, 2001, there was a malfunction of Duke Power's equipment providing electric service to the Million's residence at 211 Moody Road, Piedmont, South Carolina, and that this malfunction apparently resulted in intermittent aberrant power flow to the residence. This, according to Watts, apparently caused damage to appliances and equipment inside the home. The cause was identified by Duke personnel as an open neutral and corrected on December 31, 2001.

Watts reviewed the materials in the Docket file as well as Ms. Million's "Summary of Pleading," and stated a belief that Mrs. Million and her husband want the Commission to hold Duke Power responsible for failing to supply adequate, efficient, and reasonable service, and then penalize Duke Power for violations of State and United States laws. In her "Summary of Pleading," Mrs. Million referenced several South Carolina Code of Law Sections including 58-27-1510, 58-27-2420, 58-27-2430, and 58-27-2440. Watts stated that it was somewhat difficult to determine exactly what is being requested of the Commission from the Pleading itself since it was not filed in the normal

testimony form and lacked specificity. Watts noted that if a determination of the cause of the service problem is desired, Duke has admitted this to be a malfunction of its equipment which the Company subsequently repaired.

Commission Staff witness Watts also stated that it would be difficult to justify or support recommending imposition of a penalty in this instance, even though the Company's malfunctioning equipment was determined to be the cause of the service problem. Watts noted that in Commission Regulation 103-380, quality of service is described as the best possible service that can be reasonably expected, and when the quality or quantity falls below this level, the utility is required to provide the proper service as soon as practicable. Further, Watts noted that in the Company's approved Service Regulations, Leaf F, under Service Interruptions, it states that the Company does not guarantee continuous service. The Service Regulations go on to state that the Company shall use reasonable diligence to provide uninterrupted service and to remove the causes in the event of failure of service. Watts testified that these two regulations acknowledge the fact that continuous uninterrupted service cannot be assured as there will be times when quality service may be interrupted, and in such instances adequate service shall be restored in a reasonable manner. This reasonable standard approach is also in concert with S.C. Code Ann. Section 58-27-660, according to Watts, which pertains to the furnishing of electric service by alternate suppliers. This section addresses the replacement of a supplier of service to a consumer by another supplier if the current supplier's service is inadequate or undependable and it cannot or will not be made adequate and dependable within a reasonable time.

Watts pointed out that the equipment serving the Million's residence had been in place for at least several years before the malfunction occurred and he believed that it would not be reasonable to expect faultless service. Finally, Watts stated a belief that the Company had admitted that its equipment did in fact malfunction and, once the problem was identified, it was corrected.

III. FINDINGS AND CONCLUSIONS

1. Mrs. Karen Million filed a complaint against Duke Power alleging Duke's failure to provide adequate, efficient, and reasonable service as established pursuant to S.C. Code Ann. Section 58-27-1510 (Supp. 2002), and seeking penalties.

2. Duke denied the allegations of the Complaint.

3. During December 2001, Mrs. Million and her family did have problems with flickering lights, and did have other difficulties with electric service at the family residence.

4. A failed neutral connection was discovered by Duke, and Duke made the necessary repairs. Duke's equipment malfunctioned, however, repairs were properly and promptly made by Duke.

5. Under Regulation 103-380, quality of service is described as the best possible service that can be reasonably expected, and when the quality or quantity falls below this level, the utility is required to provide the proper service as soon as practicable. Duke complied with this regulation by promptly repairing the failed neutral connection.

6. The Company does not guarantee continuous service. See Duke Service Regulations, Leaf F, "Service Interruptions."

7. The Regulation only requires reasonable diligence to provide uninterrupted service and to remove the causes in the event of failure of service. Duke was reasonably diligent in providing uninterrupted service, and when service was interrupted, Duke removed the cause of the interruption and restored service.

8. Duke provided adequate, efficient, and reasonable service as established by S.C. Code Ann. Section 58-27-1510 (Supp. 2002). Accordingly, no penalties will be assessed in this case under the penalty statutes. See S. C. Code Ann. Section 58-27-2410, et seq.

9. The Complaint is denied and dismissed.

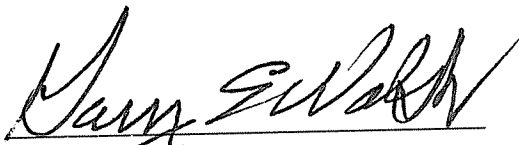
10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn
Chairman

ATTEST:



Gary E. Walsh
Executive Director

(SEAL)